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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,837

07/22/2005

Manfred Piontek

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MCCORMICK, PAULDING & HUBER LLP  
CITY PLACE II  
185 ASYLUM STREET  
HARTFORD, CT 06103

EXAMINER

PATEL, TARLA R

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

08/22/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/534,837

Applicant(s)

PIONTEK, MANFRED

Examiner

Tarla R. Patel

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/13/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Information Disclosure Statement*

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper."

Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

Therefore, the **"stick pins each have a cylindrical shaft which cylindrical shaft has an elastically resilient band with an external diameter slightly larger than the diameter of bores", "headrest divided into two mirror image similar partial supports along its line of**

**symmetry” and “the headrest or each partial rest is connected to a fastening block for holding it to a profiled rail”** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show figure 5 reference numbers corresponding structure as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "34" and "16" have both been used to designate side sections. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "28" has been used to

designate both "belts" and "chin support". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "18" has been used to designate both "chin bone support in figure 1" and "hole in figure 4". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date

of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. The drawings are objected to because drawings are **replete with error such as "region 24 is described as mouth part but it is straps in figure 1", "description of element 26 does not match", "element 30 is not shown", "element 34 is not shown in figure 3", "element 36 are not stick pins in figure 3 it is chin support", "bores are not shown in figure 3", "fastening block 42 not shown in fig 4", "profiled opening 44 is not shown in figure 4", "screws 46 and 48 are not shown in figure 4", "description of figure does not match the figure elements", "figures 6-15 are not described in brief and detailed description" and "figure 4 shows element 16 as side section, how the pins are shown as side section"**.

9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of



the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

10. The disclosure is objected to because of the following informalities: Specification is replete with errors such as: "description of figure 5 does not match up with the figure elements", "description of element 18 in figure is cheekbone support and in figure element 18 is shown as hole" and "on the

inner side of the belt is a pillow 30 through which the belt lies on to the head of the patient is not show in drawing”.

Appropriate correction is required.

11. The specification is replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. Appropriate correction is required.

12. Specification is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The drawing figures 6-15 contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Drawing figures 6-15 appears to show/disclose subject matter that is new matter. The figures 6-15 was not described in general specification and drawing. Furthermore, since there is no brief description or detailed description of figures 6-15. It is not clear to the examiner to that what apparatus these figures 6-15 are depicting and therefore, it is new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Objections***

13. Claims 5-7 are objected to because of the following informalities: The recitation in claims 5-7 of "the stickpins each have a cylindrical shaft which cylindrical shaft has an elastically resilient band with an external diameter slightly larger than the diameter of said bores", "the headrest is divided into two mirror image similar partial supports along its line of symmetry" and "the headrest or each partial rest is connected to a fastening block for holding it to a profiled rail" are not described in specification. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

14. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

15. Claims 5-7 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the

inventor(s), at the time the application was filed, had possession of the claimed invention. The recitation in claims 5-7 of "the stickpins each have a cylindrical shaft which cylindrical shaft has an elastically resilient band with an external diameter slightly larger than the diameter of said bores", "the headrest is divided into two mirror image similar partial supports along its line of symmetry" and "the headrest or each partial rest is connected to a fastening block for holding it to a profiled rail" are not described in specification and are not clear to the examiner.

***Claim Rejections - 35 USC § 102***

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

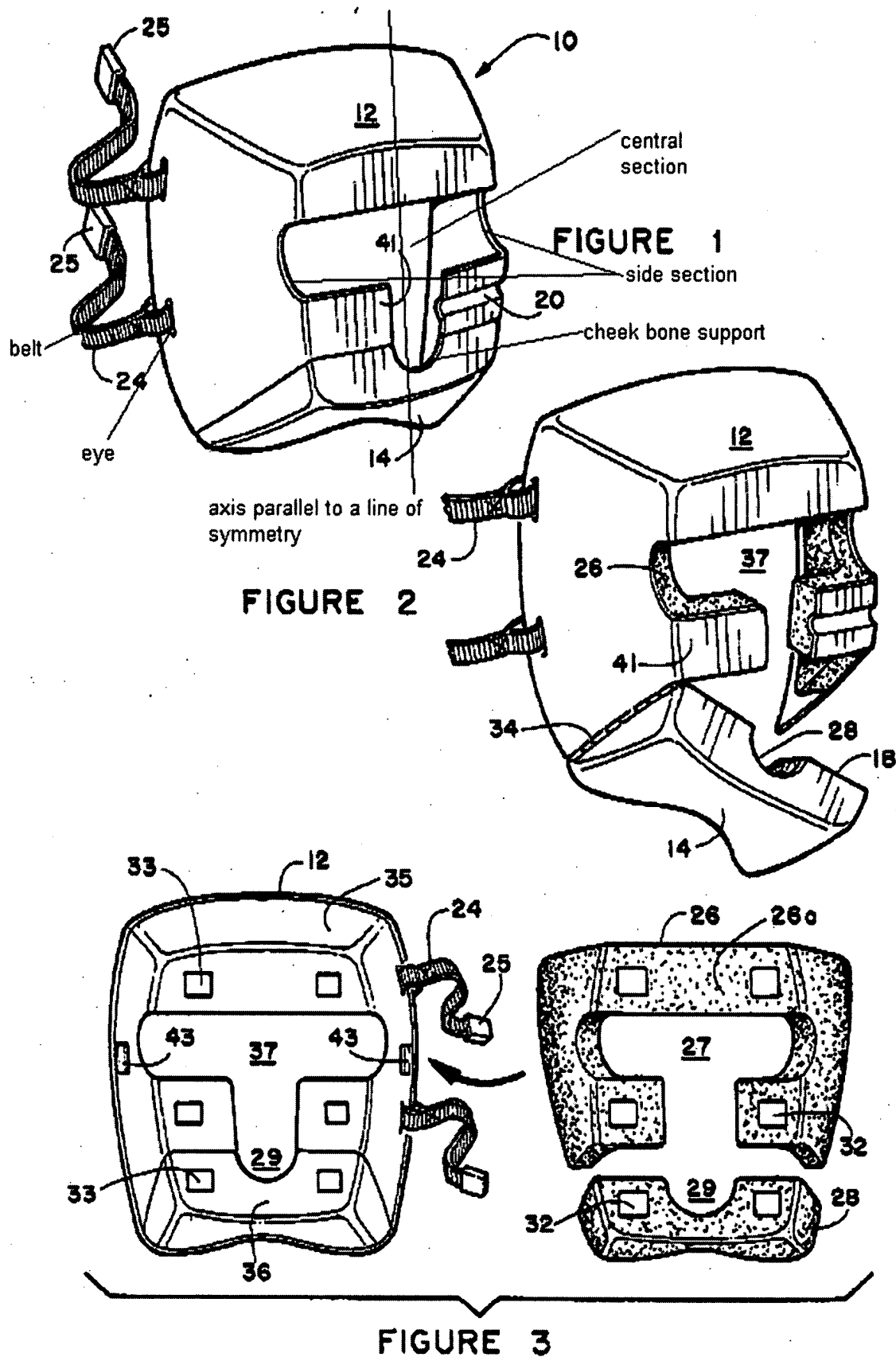
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1,3,4,7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mazzei (6,112,333).

Mazzei disclose a headrest for a patient-bearing surface with rigid-support shell (12, column 5 lines 8-12) and a cushion (26,28) releasably connectable (column 6 lines 36-59) with the rest shell, characterized that

the rest shell has an approximately horseshoe-shaped (see fig 1) form with a central section (37) for supporting the rear or forehead of a head, which central section (37) has a support surface of approximately spherical shell shape, and with two side sections conform at least approximately to a common cylindrical surface whose axis runs parallel to a line of symmetry of the head support running between the side sections with there being a cheekbone (14) on each of the side sections which cheekbone support projects in the direction toward the other side section (see figure below).



With respect to claim 3, the rest shell is made of plastic (column 5 lines 8-14).

With respect to claim 4, the support cushion on its side facing the rest shell carries at least two stick pins (16) designed for insertion into through going bores (18) in the rest shell.

With respect to claim 7, the headrest or each partial rest (see fig 5) is connected to fastening block (51) for holding it to a profiled rail (53).

With respect to claim 8, the headrest on the outer edge of each side section is formed an eye (hole, where the belt 24 is extends from the head rest 12) for the fastening of a belt (24) for fixing the head of a patient to the headrest.

### ***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mazzei (6,112,333) in view of Mazzei et al. (6,490,737).

Mazzei substantially discloses the invention, see rejection to claims 1,3-4 and 7-8 above; however, Mazzei '333 does not disclose that the stick pins each have a cylindrical shaft with cylindrical shaft has an elastically resilient band with an external diameter slightly larger than the diameter of bores and headrest is divided into two mirror image similar partial supports along its line of symmetry.

However, Mazzei et al. '737 teaches a device for protecting a patient's head wherein the device includes stick pins as part of a helmet, each pin having a cylindrical shaft with cylindrical shaft (61, see fig 7) and each has an elastically resilient band with an external diameter slightly larger than the diameter of bores (see fig 7) and device is divided into two mirror image similar partial supports along its line of symmetry (see fig 7, column 12 lines 27-30). At the time of the invention was made, it would have been obvious to one having ordinary skill in to use the teaching of the stick pins each have a cylindrical shaft with cylindrical shaft has an elastically resilient band with an external diameter slightly larger than the diameter of bores and headrest is divided into two mirror image similar partial supports along its line of symmetry to device of Mazzei '333, as taught by Mazzei et al.



'737 to have the flexibility in adjust height of headrest when user laying face down and accommodating the various face size user for the headrest.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tarla R. Patel whose telephone number is 571-272-3143. The examiner can normally be reached on M-T 6-3.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TP

  
PATRICIA BIANCO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

8/20/07